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7000 SPECIAL ACTIONS

7100 FAIR HEARINGS

DSS shall provide a fair hearing to any household aggrieved by any action of DSS which affects the participation of the household in the program. The agency shall offer an agency conference with the head of household and/or a household representative and the program supervisor whenever a household is adversely affected by an agency action, and wishes to discuss the issue. An agency conference must be offered to the household prior to a scheduled fair hearing. Fair Hearing procedures and practices are detailed in the "Manual of Practice and Procedure" distributed by the Office of Administrative Hearings.

7110 AGENCY CONFERENCE

An agency conference is an informal discussion between the client and/or one or more household representatives and a program supervisor. DSS shall advise households that use of an agency conference is optional and that it shall in no way delay or replace the fair hearing process. DSS conferences may be attended by the caseworker responsible for DSS action and shall be attended by the caseworker's supervisor, and the household and/or its representative. An agency conference may lead to an informal resolution of the dispute. If the household is satisfied with the results of the agency conference, and a fair hearing had previously been requested, the household must request a withdrawal of the fair hearing. The withdrawal should be in writing, if at all possible.

An agency conference for a household contesting a denial of expedited service shall be scheduled within 2 working days, unless the household requests that it be scheduled later or states that it does not wish to have an agency conference.

The purpose of an agency conference is to give the client an opportunity to discuss the situation with the worker's immediate superior without in any way compromising or affecting the right to appeal. In many cases, a supervisory conference will lead to resolution of the dispute and make an appeal unnecessary. If resolution is not obtained during the conference, the fair hearing process should be explained and assistance offered in helping the household prepare for the appeal (Section 7160).

7120 FAIR HEARING TIME FRAMES

Within 60 days of receipt of a request for a fair hearing, the Office of Administrative Hearings (OAH) shall assure that the hearing is conducted, a decision is reached, and the household and local agency are notified of the decision.

Decisions which result in an increase in household benefits shall be reflected in the benefit amount within 10 days of the receipt of the hearing decision even if DSS must provide the household with an opportunity to obtain the benefits outside of the normal issuance cycle. However, DSS may take longer than 10 days if it elects to make the decision effective in the household's normal issuance cycle provided the issuance will occur within 60 days from the household's request for the hearing.

Decisions which result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the hearing decision.

7130 RIGHT TO REQUEST HEARING

At the time of application, each household shall be informed in writing of its right to a hearing, of the method by which a hearing may be requested, and that its case may be presented by a household member or a representative, such as a legal counsel, a relative, a friend, or other spokesperson. In addition, at any time a member of the household expresses to DSS that it disagrees with DSS action, he/she shall be reminded of the right to request a fair hearing. If there is an individual or organization available that provides free legal representation, the household shall also be informed of the availability of that service.

7131 TIME PERIOD FOR REQUESTING A HEARING

Households shall be allowed to request a hearing on any DSS action or any loss of benefits which occurred in the prior 90 days. Action by DSS shall include a denial of a request for restoration of any benefits lost more than 90 days but less than a year prior to the request. In addition, at any time within a certification period a household may request a fair hearing to dispute its current level of benefits.

Once a household has requested a fair hearing, the hearing will be held unless the household withdraws the hearing request in writing or orally. For hearing requests that were not received timely, the CW should start their testimony at the hearing by citing the hearing request date, regulations concerning allowable time frames, and then make a request to dismiss the hearing because it was not requested timely.

7132 REQUEST FOR HEARING

A request for a hearing is defined as a clear expression, oral or written, by the household or its representative to the effect that it wishes to appeal a decision or that an opportunity to present its case to a higher authority is desired. If it is unclear from the household's request what action it wishes to appeal, DSS may request the household clarify its grievance. The freedom to make a request for a hearing shall not be limited or interfered with in any way.

Form DSS-EA-319, Oral/Written Request for Administrative Hearing, must be completed by DSS if the request for a hearing is initiated at the local office. DSS-EA-319 must be submitted to the Office of Administrative Hearings within one working day of receipt. If the household has submitted the request for hearing in writing, the written request must be attached to the DSS-EA-319.

7133 HOUSEHOLD REQUESTS FOR POSTPONEMENT

The household may request and is entitled to receive a postponement of the scheduled hearing. The postponement shall not exceed 30 days and the time limit for action on the decision may be extended for as many days as the hearing is postponed.

EXAMPLE: If a fair hearing is postponed by the household for 10 days, notification of the hearing decision will be required within 70 days from the date of the request for a hearing.

7134 HEARING REQUESTS FROM MIGRANT HOUSEHOLDS

DSS shall expedite hearing requests from households, such as migrant farm workers, that plan to move from the jurisdiction of the hearing official before the hearing decision would normally be reached. Hearing requests from these households shall be processed faster than others if necessary to enable them to receive a decision and restoration of benefits if the decision so indicates before they leave the area.

7140 CONTINUATION OF BENEFITS

If a household requests a fair hearing within 10 days after they have received the notice of adverse action and its certification period has not expired, the household's participation in the program shall be continued on the basis authorized immediately prior to the notice of adverse action, unless the household specifically waives continuation of benefits. If the household does not indicate whether it waives continuation of benefits, then the desire for continued benefits shall be assumed.

If DSS action is upheld by the hearing decision, a claim against the household shall be established for all overpayments, unless the hearing issue was a work registration sanction (both E & T and non E & T work registration sanctions). If the hearing examiner upholds the Department's work determination, the sanction/disqualification period will begin the first month after the hearing decision is rendered. Refer to Section 3454 for further information.

If a hearing request is not made within the period provided by the notice of adverse action, benefits shall be reduced or terminated as provided in the notice. However, if the household establishes that its failure to make the request within the advance notice period was for good cause, DSS shall reinstate the benefits to the prior basis.

7150 REDUCTION OR TERMINATION OF BENEFITS

When benefits are reduced or terminated due to a mass change, participation on the prior basis shall be reinstated only if the issue being contested is that food stamp eligibility or benefits were improperly computed or that Federal law or regulation is being misapplied or misinterpreted by DSS.

Once continued or reinstated, benefits shall not be reduced or terminated prior to the receipt of the official hearing decision unless:

- A.) The certification period expires. The household may reapply and may be determined eligible for a new certification period with a benefit amount as determined by DSS; or,
- B.) The hearing official makes a preliminary determination, in writing and at the hearing, that the sole issue is one of Federal law or regulation and that the household's claim that DSS improperly computed the benefits or misinterpreted or misapplied such law or regulation is invalid; or,
- C.) A change affecting eligibility or basis of issuance occurs while the hearing decision is pending and the household fails to request a hearing after the subsequent notice of adverse action; or,
- D.) A mass change affecting the household's eligibility or basis or issuance occurs while the hearing decision is pending.

DSS shall promptly inform a household in writing if benefits are reduced or terminated pending the hearing decision.

7160 HOUSEHOLD RIGHTS

Upon request, DSS shall make available without charge the specific materials necessary for a household or its representative to determine whether a hearing should be requested or to prepare for a hearing. The household or its representative must also be given adequate opportunity to examine all documents and records to be used at the hearings at a reasonable time before the date of the hearing as well as during the hearing. The contents of the case file including the application form and documents of verification used by the State agency to establish the household's ineligibility or eligibility and benefit amount shall be made available, provided that privileged information, such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions, is protected from release. Privileged information protected from release and other documents or records which the household will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing or affect the hearing official's decision.

7160, Household Rights continued:

During the hearing, the household or its representative may:

1. Bring witnesses;
2. Present their case;
3. Question or refute any testimony or evidence;
4. Cross examine adverse witnesses; and
5. Submit evidence to establish all pertinent facts and circumstances in the case.

7170 HEARING DECISIONS

Decisions shall comply with Federal law and regulations and shall be based on the hearing record. The verbatim testimony transcript or recording of testimony and exhibits, or an official report containing the substances of what transpired at the hearing, together with all papers and requests filed in the proceedings, shall constitute the exclusive record for a final decision by the hearing authority. This record shall also be available to the household or its representative at any reasonable time for copying and inspection.

A decision is binding on DSS and shall summarize the facts of the case, specify the reasons for the decision, and identify supporting evidence and the pertinent Federal regulations. The decision shall become part of the record.

The household and local office shall each be notified in writing of the decision, appeal rights, and the household's benefits will be issued or terminated as decided by the hearing authority. The notice shall also state that an appeal may result in reversal of the decision. The household has the right to pursue judicial review of the decision if the DSS action is upheld by the hearing authority.

All DSS hearing records and decisions shall be available for public inspection and copying, subject to disclosure safeguards provided in Section 1300 and provided identifying names and addresses of household members and other members of the public are kept confidential.

7180 IMPLEMENTATION OF FINAL DSS DECISIONS

DSS is responsible for insuring that all final hearing decisions are reflected in the household's benefit amount within the time limits specified in Section 7120.

When the hearing authority determines that a household has been improperly denied program benefits or has been issued a lesser benefit amount than was due, lost benefits shall be provided in accordance with 7200 series. DSS shall restore benefits to households leaving the State before the departure whenever possible. If the household has moved out of state, benefits must still be approved and the household notified.

When the hearing authority upholds DSS's action, a claim against the household for any overpayment shall be prepared in accordance with the 7300 series.

7200 UNDERISSUED BENEFITS

DSS is required to issue food stamp benefits that are lost as a result of DSS error. No action by the household is required once the underissuance has been discovered. There are two methods to repay underissued benefits: agency error corrective action payment or restoration of lost benefits.

7210 AGENCY ERROR CORRECTIVE ACTION PAYMENT:

Agency error corrective action payments are made when:

1. The underissuance is caused by agency error;
2. The underissuance is discovered in the same benefit month the underissued benefits were paid; and
3. The agency error corrective action payment can be paid in the same benefit month the underissued benefits were paid.

If at all possible, agency error corrective action payments should be completed rather than restored benefits. Because corrective action payments are only made when the household didn't receive their full benefit amount because DSS made a mistake, the payment should be authorized to the household as soon as possible. Agency error corrective action payments are the fastest method of payment. If the underissued benefits cannot be paid the same benefit month the incorrect allotment was paid, the underissued benefits must be paid following restoration of lost benefits' procedures.

To authorize agency error corrective action payments, make the change(s) on ACCESS, and when the case has completed background transactions, approve the eligibility results. Documentation must also be completed detailing the reason for the corrective payment.

7220 RESTORATION OF LOST BENEFITS:

Restoration of lost benefits must be made when the underissuance is caused by:

1. The agency made a mistake (agency error); or
2. An intentional program violation (IPV) disqualification is later reversed; or
3. Federal regulations specifically require it; or
4. Court order; and
5. The underissuance is not paid in the same benefit month the underissued benefits were paid. (Section 7210)

Whenever a household receives fewer benefits than it was entitled to for one of the reasons listed above, and a corrective action payment cannot be paid in the same benefit month, the CW must restore those lost benefits within 30 days from the date the error is substantiated. Time frame limits for are defined in Section 7221. Current participation is not a condition of eligibility for restored benefits.

Benefits are not restored to households for unreported changes, unless the household resides on reservation land and turns in a late monthly report form during the reservation grace issuance month (Section 5961.2).

Before any restored benefits may be issued, any prior overpayments must be paid in full. Restored benefits are completed electronically through the Prior Adjustment Period (PADJ) process on ACCESS. ACCESS will automatically read the SS51 system for an overpayment balance. If one is located, the restored benefit amount will automatically be used as an offset against the overpayment balance. If the amount of restored benefits due the household is larger than the unpaid overpayment, ACCESS will deduct the unpaid balance and issue the remainder of the benefit amount as a restored benefit. The worker must provide the difference to the household according to the procedure in Section 7240. Refer to Section 7244 for additional procedures in crediting restored benefits against unpaid overpayments.

Workers must contact households entitled to restored benefits and inform them of their right to these benefits as soon as they are determined eligible for them. The worker also must advise the household of the amount of benefits to be restored, any offsetting that was done, the method of restoration, and the right to appeal decisions affecting any aspect of the restoration of lost benefits. The notification may be done via the PADJ NOTC function via ACCESS.

7221 TIME LIMITS FOR RESTORING BENEFITS

Benefits must be restored for not more than 12 months from the most recent of the following:

- A.) The date the household, another person, or agency notifies DSS of the possible loss to that specific household. This notification to DSS can be either oral or written.
- B.) The date DSS discovers in the normal course of business that a loss has occurred to a specific household.
- C.) Benefits must be restored to households whose benefits were found by any judicial action to have been wrongfully withheld. If the judicial action is the first action the recipient has taken to obtain restoration of lost benefits, then benefits shall be restored for not more than 12 months from the date the court action was initiated. When the judicial action is a review of a DSS action, benefits shall be restored for a period of not more than 12 months from the first of the following dates:
 - 1.) The date DSS receives a request for restoration;

- 2.) If no request for restoration is received, the date the fair hearing action was initiated; but,
 - 3.) Never more than one year from when DSS is notified of, or discovers the loss.
- D.) The date the household requested a fair hearing to contest the adverse action which resulted in the loss.

Benefits may not be restored for longer than 12 months unless regulations require a longer time period or if judicial action specifically orders restoration for a set time period.

7230

DISPUTED BENEFITS

If the household does not agree with the amount or any other action taken by the worker to pay lost benefits, the household may request a fair hearing within 90 days of the date of notification of entitlement to the benefits. If a fair hearing is requested before or during the time lost benefits are being issued, the household will continue to receive the underissued benefits as determined by the worker pending the fair hearing decision. If the fair hearing decision is favorable to the household, the worker will restore benefits in accordance with that decision.

In addition, if a household believes it is entitled to underissued benefits, but the worker does not agree, the household may request a fair hearing on that issue. The worker should document requests for underissued benefits in the household's case folder, including justification for the worker's decision and the date of that decision. Households should receive a notice of the worker's decision.

7240

COMPUTATION OF THE AMOUNT TO BE RESTORED

When an error involving a loss of benefits is discovered in a household's current certification, the worker first must take steps to correct the basis of issuance for future months. If possible, an agency error corrective action payment is authorized for the current month, and restoration of lost benefits is completed for past months.

The worker then must exclude those months for which benefits may have been lost before the 12-month time limit described in Section 7221.

PADJ is used to document and record the amount of benefits to be restored. Restored benefits must be approved through supervisory staff prior to their issuance.

7241 DELAY, DENIAL, TERMINATION

If, because of a DSS error, an eligible household's application was denied, or the worker delayed benefits to an eligible household more than 60 days after the initial application was filed, the month of application is considered the first month the loss occurred.

If, because of DSS error, benefits are delayed less than 60 days from the date the application was filed, the worker must provide benefits retroactive to the date of application. If an eligible household made timely application for continued benefits and was not provided an opportunity to participate in the month following the expiration of its certification period, the month following the end of the certification period is considered the first month the loss occurred.

If a household's benefits were erroneously terminated, the first month that benefits were not received as a result of the erroneous action is considered the month the loss initially occurred.

After computing the date the loss initially occurred, the loss is calculated for each month after the initial month until either:

- A.) The first month the error is corrected,
- B.) The first month the household is found ineligible, or
- C.) The first month the household reapplied.

EXAMPLE 1: A household receives fewer benefits than entitled beginning in January and the error is not corrected until the April issuance. If otherwise eligible, the household is due restored benefits for January, February, and March.

EXAMPLE 2: A household was erroneously denied in January, reapplied July 1, and was certified. Lost benefits would be considered for January through June 30. Note that the household's situation for February through May is considered even though the household did not apply in those months.

EXAMPLE 3: Same situation as example 2; except, the household was ineligible for March although eligible for the other months. In this case, the lost benefits should be restored only for January and February because the restoration stops at the first month the household is actually ineligible.

7242 DETERMINATION OF ELIGIBILITY

The worker must determine if the household was actually eligible for each month a potential loss occurred. If there is insufficient information in the household's case folder to document that the household actually was eligible, or if the household had never applied for the month in question, the worker must tell the household what information must be given to determine eligibility. For each month the household cannot give the necessary information to demonstrate its eligibility, the household is considered ineligible.

7243 CALCULATION

For the months the household was eligible, the worker will calculate the allotment the household should have received. If the household was certified and participating but received a smaller amount than it was entitled to, the difference between the actual and the correct amount is the amount underissued.

7244 OFFSETTING CLAIMS

If a claim against a household is unpaid or held in suspense, the worker must count the amount to be restored against the amount due on the claim. The balance, if any, is then restored to the household.

In cases when an initial allotment is received within 60 days of the date an application is filed and is paid retroactive to the date of application, the retroactive payment must not be reduced to offset any prior claims.

In cases where the underissuance was discovered in the same month it occurred, and an agency corrective action payment is authorized for that month, the corrective action payment may be reduced by a recoupment payment

7245 PERSONS DISQUALIFIED FOR INTENTIONAL PROGRAM VIOLATION (IPV)

Persons who are disqualified because of an intentional program violation determination are entitled to restoration of any benefits lost during the months of disqualification, not to exceed 12 months prior to the date of DSS notification only if the intentional program violation determination is later overturned or reversed.

For each month the individual was disqualified, not to exceed 12 months prior to DSS notification, the amount to be restored, if any, shall be determined by comparing the amount the household received with the amount the household would have received had the disqualified person been allowed to participate. If the household received a smaller amount than it should have received, the difference equals the amount to be restored. Participation in an administrative disqualification hearing in which the household contests DSS' assertion of intentional program violation shall be considered notification that the household is requesting restored benefits.

7250 AUTHORIZATION

If a worker determines that a household is eligible for an agency corrective action payment, the worker will authorize the corrective action payment by approving the eligibility results after the corrections are made on ACCESS.

If a worker determines that a household is eligible for restored benefits, the worker will authorize restored benefits only with the supervisor's approval via PADJ.

If benefits are restored because of an appeal, the hearing officer must record the amount of restored benefits the household is entitled to in the decision of the fair hearing.

FS PADJ will include the computations used to figure the amount of benefits due the household and the supervisor's approval of the worker's authorization.

7260 HOUSEHOLD COMPOSITION CHANGES

Whenever a household is entitled to restored benefits and the household membership has changed, the worker will issue the restored benefits to the household containing a majority of the individuals who were household members at the time the loss occurred. If the worker cannot locate or determine the household which contains a majority of household members, the worker will restore the lost benefits to the household which included the head of household at the time the loss occurred.

7270 PROCEDURE FOR AUTHORIZING UNDERISSUED BENEFITS

To provide agency error corrective action payments, the following procedures must be completed by the worker responsible for the case.

- A.) In the benefit month the underissuance occurred, enter the corrected change on ACCESS.
- B.) After the case has completed background, and if the underissued benefit can still be issued in the underissuance month, approve the eligibility results authorizing the corrective action payment. If payment cannot be made in the underissuance month, the payment must be made following restored benefits procedures.

To provide restored benefits to qualified households, the following procedures must be completed by the worker responsible for the case. At each step of the process, claims should be acted on within five working days. Restored benefits must be issued to the household within 30 days from the date the error is substantiated.

- A.) FS PADJ calculation and documentation should be completed on ACCESS by the caseworker.
- B.) Supervisor reviews PADJ and is responsible for making the final decision on the restoration (the FPS may choose to make the final decision). The Supervisor will query the SS51 system for outstanding claims.
- C.) Supervisor approves PADJ results or explains the reason for the disapproval of the restoration.

- D.) The caseworker completes the notice to the household via ACCESS. The notice should list the amount of restored benefits, why they are restored, the time period the restored benefits cover, and that the household member must contact the office to get an EBT card and PIN number, if they do not have one.
- E.) If PADJ cannot be completed (because there are no eligibility results on ACCESS), a DSS-RE-894, Overpayment Report, must be completed and sent to the EBT Administrator. EBT personnel will authorize the restored benefits into the individual's EBT account.
- F.) For cases inactive at the time the restored benefit is approved:
- 1.) IN-STATE RESIDENTS:
 - * Before April 2002, the EBT account must be reactivated.
 - * April 2002 and after, the EBT account will be automatically reactivated when the restored benefits are put into the EBT account (availability date).
 - 2.) OUT OF STATE RESIDENTS:
 - * Before April 2002, EBT staff will activate the EBT account upon notification from the Supervisor of PADJ approval. When the address is known, and a replacement EBT card is requested, EBT State Office Personnel will complete the process following EBT mail replacement procedures. If the address is not known, or the household does not request a replacement EBT card/reactivation, the benefits will be available for 365 days after the PADJ availability date. If the household does not request the benefits until after 365 days, the benefits may be paid following EBT restored benefit procedures upon request from the household.
 - * April 2002 and later, the EBT account will be automatically reactivated when the restored benefits are put into the EBT account (availability date). When the address is known, and a replacement EBT card is requested, EBT State Office Personnel will complete the process following EBT mail replacement procedures. If the address is not known, or the household does not request a replacement EBT card/PIN number, the benefits will be available for 365 days after the PADJ availability date. If the household does not request the benefits until after 365 days, the benefits may be paid following EBT restored benefit procedures upon request from the household.

7300 CLAIM DETERMINATIONS - ESTABLISHING CLAIM AGAINST HOUSEHOLDS

Regulations state "Each Agency shall establish a claim against any household who received more food stamp benefits than it is entitled to receive or any household which contains an adult member who was an adult member of another household that received more benefits than it was entitled to receive". It is the caseworker's responsibility to timely establish overpayment reports whenever a household has received more benefits than they were eligible for.

All adult household members are jointly and severally liable for the value of any overpayment of benefits to the household.

All potential food stamp benefit overpayments must be investigated timely to determine if an overpayment report is required. Requests for verification (substantiation) must be initiated, as soon as possible, and within 30 days of the date the potential overpayment was determined. The date the potential overpayment is determined is defined as the date the agency first suspects the household received more benefits than it was entitled to or the date it first suspects that a household may have misused their benefits.

Before the overpayment report, DSS-EA-894, is completed, the overpayment must be substantiated. Substantiation is defined as supporting the overpayment with proof or evidence (verification) and documentation detailing when, how, why, and the amount of the overpayment. Substantiation may be obtained from the recipient, source, collateral contact, or from the referral source. Each situation is unique and supporting verification is obtained from the most reliable and quickest method. Prudent worker judgement is used to determine how and which verification sources are used. For situations in which specific verifications may not be obtained, the next most reliable source/verification is used. [For example: employer refuses or fails to release actual amounts of each pay check - the quarterly amount reported to the Department of Labor (DOL) may be used by averaging the gross amount over the entire 3 months; or if the employment is less than 3 months; over the start and/or stop dates of employment.]

All requests for substantiation must be made as soon as possible but within 30 days of the date the potential overpayment is discovered. (If substantiation cannot be started within 30 days, the process must still be completed - it will just be a late determination.) Tracking of the substantiation process will be completed for federal reporting therefore it is imperative the date of potential overpayment and the date substantiation is initiated are listed on the hard copy (DSS-RE-894) and automated overpayment referral (RECO).

The date the final substantiation/documentation is received verifying that an overpayment has occurred is defined as the substantiation date. The claim is calculated and completed as soon as possible after the substantiation date, and is required to be transmitted to the Office of Recoveries and Fraud Investigation (ORFI) within 120 days from the completed substantiation date.

The overpayment report, DSS-RE-894, and automated referral (RECO) is the process used to transmit overpayments to ORFI to establish liability for the loss to the program. The overpayment report must contain a summary of the facts and circumstances supporting the overpayment amount, including the date of discovery of potential overpayment, the date the substantiation process is started, and the date the final substantiation was received. Failure to complete any of the required dates will result in the DSS-RE-894 report being returned for completion. Additionally RECO has on-line edits to require completion of each date field. The summary must also contain an explanation on how claim identification was determined [why the claim was identified as a suspected program violation (SPV), inadvertent household error (IHE), or agency error (AE)]. More specific information regarding overpayment completion and referral is located in Section 7350.

If the referral is not made to ORFI within 120 days, the overpayment is considered overdue. Time frames will be tracked therefore it is very important that the substantiation date is listed on both the DSS-RE-894 and RECO. [Overpayment reports must still be completed and referred to ORFI even when the 120 day time frame cannot be met.]

The DSS-RE-894, Overpayment Report, must be filed, along with all supporting documents in Section 5 of the case record. Supporting documents are the documents used to establish the claim amount - wage stubs, verification or bank letters, rent receipts, etc. The DSS-RE-894 and supporting documents must be retained in the case file for three years from the date the overpayment was paid in full, compromised to zero by ORFI, or terminated. Therefore claim documents should not be purged from active records until 3 years after ORFI has terminated the claim. Inactive case records may be sent to storage 2 years after ORFI has terminated the claim because the record will be stored for an additional two years there before destruction.

7310 SITUATIONS NOT RESULTING IN AN OVERPAYMENT REPORT

An overpayment report will not be filed when the overpayment:

- 1.) Was located more than 12 months after it occurred and intentional program violation is not suspected.
- 2.) Occurred because the household otherwise was eligible, but the worker failed to ensure that the household's application form was signed, that a current work registration form was completed, or that the household was certified in the correct county.
- 3.) When a categorically eligible household is later found ineligible for TANF or SSI because of excessive resources. (Categorical eligibility cannot be rescinded retroactively.)
- 4.) The food stamp case is closed; the overpayment amount is less than \$100; and the overpayment was not reported as a result of a Quality Control review. [Section 7330]

7320 CLAIM TYPES

There are three types of claims: agency error, inadvertent household error, and suspected program violation/intentional program violation errors. The procedures to be followed for each differ. The type of claim determines what procedures are followed. Each claim summary on the overpayment report (DSS-RE-894) must support how the claim type was determined.

7321 AGENCY ERRORS (AE)

An overpayment will be classified as an agency error claim when the agency's action or failure to act caused the overpayment.

Example: Agency Error - The worker transposed gross wage amounts when entering on ACCESS (entered \$250 - actual gross was \$520). The overpayment was caused by DSS, thus the claim is treated as an agency error claim.

For households determined categorically eligible, an agency error claim will be prepared when DSS took action or failed to take action which resulted in the household's improper eligibility for TANF provided the claim is based on additional income and/or changes in household size and or deductions. [If SSI or CCS failed to take action or took improper action on income, household size, or deductions, it would be filed as an inadvertent household error because we did not make the error.]

For Example: The recipient reported that the absent parent, who was employed, returned to the home. DSS neglected to add him to the household. A claim would be prepared adding the absent parent and his income.

The most common agency errors occur when:

- 1.) DSS incorrectly issued duplicate benefits.
- 2.) The worker incorrectly computed the household's income and/or deductions, or otherwise, assigned an incorrect allotment.
- 3.) The worker failed to take prompt action on a change reported by the household.
- 4.) DSS continued to provide an allotment after a household's certification had expired and the household had not reapplied.
- 5.) DSS failed to provide a household a reduced level of benefits because its TANF grant changed.
- 6.) DSS failed to take the appropriate action which resulted in a household improperly receiving TANF and therefore improperly receiving Food Stamp benefits as a categorically eligible household.

7322 INADVERTENT HOUSEHOLD ERROR CLAIMS

Inadvertent household error claims are those claims established against households for overpayments caused because the household had a misunderstanding or unintended error in reporting or failing to report information.

For Example: The food stamp household members consisted of Mr. and Mrs. A and their two children. Mr. A's employed cousin, Mr. B, moved into the home as a member of the household. The household did not report the change in the members of the household nor the additional income which resulted in an overpayment. Mr. A told the worker that he did not report this as he did not understand that he should report this change as Mr. B was only a cousin and not a member of his immediate family.

The most common inadvertent household error claims occur because:

- 1.) The household failed to provide correct and complete information.
- 2.) The household failed to timely report changes in its household circumstances.
- 3.) The household received continued benefits pending a fair hearing decision and was found to be ineligible or eligible for fewer benefits.
- 4.) A late monthly report form was received indicating the household was entitled to fewer benefits than the amount paid. (Section 5961.2)
- 5.) The household was receiving benefits solely because of categorical eligibility and it was later determined ineligible to receive TANF/SSI/CCS because of additional income or changes in household size or deductions that were unreported (unless it is suspected to be an intentional error on the part of the household, then may be filed as SPV).
- 5.) SSA or Child Care Services (CCS) took an action or failed to take the appropriate action which resulted in the household improperly receiving SSI or CCS and therefore improperly receiving Food Stamp benefits as a categorically eligible household.

Example: The household received wages and TANF. The total income would normally exceed the gross income limit but the household was categorically eligible. It is discovered that the household neglected to report a \$200 bonus. A claim would be established calculating benefits including the \$200 bonus.

The same household was allowed a shelter deduction. They neglected to report the parents had started paying all shelter costs meaning they no longer had the expense. A claim would be established calculating benefits removing the shelter expense deduction.

Example: The recipient reported receiving income in excess of SSI guidelines to SSA. SSA neglected to close the case and also neglected to notify DSS of the recipient's additional income. A claim would be established using the additional income.

7323 SUSPECTED PROGRAM VIOLATION (SPV)

An overpayment will be classified as a suspected program violation (SPV) household error claim if it appears the overpayment was intentionally or fraudulently caused by the household.

The most common suspected program violation claims occur because someone in the household:

- 1.) Made false statements, either orally or in writing, to obtain benefits the household is not entitled to.
- 2.) Concealed information to obtain more benefits than entitled to.
- 3.) Altered Dakota EBT cards to obtain benefits the household is not entitled to.
- 4.) Trafficked benefits for cash or non-food items

Determinations on whether the overpayment was intentionally caused should be based on sound caseworker judgment and an evaluation of all the circumstances involved in each individual case. Factors that should be considered include:

- 1.) Whether or not the household has a past history of failure to report changes in its status, often having been instructed to do so.
- 2.) Whether the change involved was a change in circumstances since the date of certification or the last recertification or whether it was information that was withheld at the time of certification or recertification.
- 3.) Whether there had been any other contacts with the household wherein there had been an opportunity to report the change.

- 4.) Whether at the time of certification there was evidence of a pending change in status which the household was instructed to report and which it failed to report.
- 5.) The relative importance of the type of change or information not reported by the household.
- 6.) Whether or not the case file indicates that the caseworker's interviewing techniques were sufficiently thorough to leave no doubt that any information not obtained was intentionally withheld (verified by signed DSS-EA-339).

The claim against the household will be handled as a suspected program violation (SPV) prior to the determination of intentional program violation or the signing of a waiver or consent agreement. The SPV claim is completed via the DSS-RE-894 and RECO [Section 7350] and sent to the Office of Recoveries & Fraud Investigations (ORFI). ORFI determines if the case should be referred to legal services or an IPV hearing. The local office may also request investigator assistance from ORFI to assist in preparation of the SPV, prior to completing the DSS-RE-894 and RECO.

The supervisor must review all SPV referrals prior to signing off and sending to ORFI. IF the worker misapplied policy, or the facts do not support fraud, the supervisor must request a re-review of the circumstances, and possibly have the overpayment reclassified to an IHE. No collection efforts on suspected program violation claims should be initiated until a determination of intentional program violation has been made.

An investigation or a pending disqualification hearing does not effect the suspect person's or household's right to be certified and receive food stamp benefits pending a final decision. The household's eligibility and benefit level must be determined the same way as for any other household. Also, if the worker determines that the household is ineligible or eligible for fewer benefits while awaiting a decision, the worker must take steps to terminate or reduce the household's benefits according to Section 6400.

Action is taken to adjust benefits even if the facts lead to a suspected intentional program violation. For example: the worker may have facts to support a household's failure to report a change, even though it has not yet been determined that the failure to report involved intentional program violation. The current benefit level of the case must be adjusted, separate from any intentional program violation consideration.

The SPV claim status will continue until one of the following occurs:

- 1.) Administrative Disqualification Hearing (ADH) decision;
- 2.) Court IPV Decision;
- 3.) ADH Waiver Signed;
- 4.) Disqualification Consent Agreement Signed.

If the SPV individual signs a waiver or consent agreement, ORFI reclassifies the claim to an Intention Program Violation (IPV). If the ADH hearing or court findings affirm the individual is guilty of an intentionally causing the overpayment, ORFI reclassifies the claim as an Intentional Program Violation. If the IPV hearing or court findings state the overpayment was not intentionally caused, ORFI reclassifies the claim as an Inadvertent Household Error (IHE).

7324 INTENTIONAL PROGRAM VIOLATION (IPV)

ORFI will reclassify a Suspected Program Violation (SPV) claim to an Intentional Program Violation (IPV) claim only if an administrative disqualification hearing or a court of appropriate jurisdiction has found a household member committed intentional program violation or an individual is disqualified as a result of signing either a waiver or his/her disqualification hearing (Section 7420) or a disqualification consent agreement in cases referred for prosecution (Section 7441).

Federal regulations require States to penalize individuals for trafficking benefits through the Intentional Program Violation procedures. Trafficking is defined as "the means of buying or selling of coupons, ATP cards, or other benefit instruments for cash or consideration other than eligible food". The Office of Recoveries and Fraud Investigations (ORFI) is responsible for investigating and calculating trafficking violations.

7330 STARTING THE OVERPAYMENT REPORT PROCESS

Whenever a household has been issued incorrect benefits, DSS must determine if a household is owed benefits or if the amount must be repaid. If the determination is that we owe the household benefits, procedures identified in Section 7200, Corrective Action Payments or Restored Benefits, must be followed. If the determination is the household owes benefits, then we must determine if an overpayment report must be completed.

Overpayment amounts that total less than \$100 are waived, and no further action is taken UNLESS one of the following conditions apply:

1. The household is actively receiving benefits; or
2. The overpayment was discovered through the Quality Control review process.

If the household is not actively receiving benefits; the overpayment was not discovered through a QC review; and the overpayment is less than \$100, the overpayment report is not completed. However the file must contain documentation regarding the waived overpayment detailing when the overpayment occurred, why it occurred, and the estimated amount of overpayment. When or if the household reapplies for benefits, specific training on the overpayment causes must be completed to ensure future overpayments do not reoccur.

When calculating the overpayment, the correct amount of benefits is determined for the months in error. Only the new data that DSS is aware of will be verified and budgeted in the calculation. DSS does not reverify all factors pertaining to those months, only the error elements. The correct amount of benefits is subtracted from the actual amount received to arrive at the overpayment amount. If the amount is zero, no claim is completed. If the amount is a negative figure, DSS will follow restored benefit or corrective action payment procedures (Section 7200).

Overpayment reports are filed via the DSS-RE-894, Overpayment Report, and RECO, automated referral. Overpayment reports must be filed with the Office of Recoveries and Fraud Investigations (ORFI) as soon as possible after the substantiation is received, and within no later than 120 days from the date the final substantiation is received (Section 7300).

7331 DETERMINING NUMBER OF MONTHS FOR AGENCY ERROR (AE) AND INADVERTENT HOUSEHOLD ERRORS (IHE) CLAIMS

After excluding those months that are more than 12 months prior to the month the overpayment was discovered, the worker shall determine the correct amount of food stamp benefits the household should have received for those months the household participated while the overpayment was in effect. A 12 month time limit from the month an overpayment was discovered is used in computing an agency error or inadvertent household error claim. Therefore the time factor in determining agency error or inadvertent household overpayments will be computed as follows:

- A.) Determine first month an overpayment occurred excluding those months that are more than 12 months prior to the month of discovery.

EXAMPLE: On 7-13-01, DSS discovered Mr. X received an overpayment from 6-00 through 7-01. Therefore, the claim will be based only on the overpayment received from 7-1-00 through 7-01 (12 months prior to the month of discovery plus the month of discovery).

- B.) Determine the total number of months the household received an overpayment excluding those months that are more than 12 months prior to the month of discovery.

If the household timely reports the change but the worker fails to timely act on the change, or if the household failed to report a change, the first month of overpayment shall be the first month DSS should have made the change effective. However, in no event shall DSS determine as the first month in which the change would have been effective any month later than two months from the month in which the change in circumstances occurred. If the notice of adverse action was required but was not sent, DSS shall assume that the maximum advance notice period would have expired without the household requesting a fair hearing.

EXAMPLE: Mrs. T reported on 01-03-01 monthly report form that she had gone to work on 12-26-00. She is prospectively ineligible based on her wages however the caseworker did not act on the reported change. If the worker had sent notice on a timely basis, the first month of the ineligibility would have been February 2001. Thus, February would be the month considered as first month the household received an overpayment.

EXAMPLE: Mrs. B. (a MRRB household) reported to the worker on 5-15-01 that her 18 year old son had gone to work on 1-26-01.

Since Mrs. B failed to report this change on her monthly report due by February 20, the first month affected by Mrs. B's failure to report shall be March since that is the first month in which the change would have been effective had it been reported on her EA-214.

7332

DETERMINING AMOUNT OF AGENCY AND INADVERTENT HOUSEHOLD ERROR CLAIMS

- A.) If the household received a larger allotment than it was entitled to receive, DSS shall establish a claim against the household equal to the difference between the allotment the household received each month and the allotment the household should have received using the correct allotments and eligibility factors in effect at that time. For categorically eligible households a claim will only be determined when it can be computed on the basis of changed household net income and/or household size or deductions. A claim shall not be established if there was not a change in net income and/or household size or deductions.

If earned income is unreported or not reported timely, the earned income deduction (20%) shall not be allowed in the claim calculation process on the portion of earned income that was not reported timely. It does not matter whether the individual intentionally or inadvertently did not report the earned income timely.

If earned income is reported timely, and DSS failed to act on the information, the earned income deduction is allowed in the overpayment calculation (agency error claims).

- B.) When the amount of the claim is established, it will be necessary to determine if there are any benefits due the household which have not been restored in accordance with procedures under "Restoration of Benefits" (Section 7200). If so, any benefits due the household will be subtracted from the amount of the claim. DSS will initiate collection action for the remainder, if any.

NOTE: Retroactive benefits and current benefits can never be reduced to offset a claim.

7340 DETERMINING THE NUMBER OF MONTHS FOR A SUSPECTED PROGRAM VIOLATION
 (SPV) CLAIM

If it has been suspected that any member of the household committed intentional program violation by not reporting a change in circumstances or reporting incorrect information, the first month benefits were overissued shall be the first month in which the change would have been effective had it been reported correctly. However, in no event shall DSS determine as the first month in which the change would have been effective any later than two months from the month in which the change in household circumstances occurred.

The suspected program violation claim is calculated back to the month the act of violation occurred (but not back more than 6 years from the date the overpayment was discovered). For each month that a household received an overpayment due to an act of suspected program violation, DSS shall determine the correct amount of food stamp benefits, if any, the household was entitled to receive.

It is imperative that the substantiation/verification still exists. If the information has been purged or destroyed, and there is no way to recreate or recapture the documents, those months cannot be included in the calculation of the overpayment amount. Suspected program violations must be provable and if the violation, amount of issuance, and/or supporting documents no longer exists, no proof exists.

7341 DETERMINING THE AMOUNT OF A SUSPECTED PROGRAM VIOLATION (SPV) CLAIM

- A.) If the household received a larger allotment than it was entitled to receive, DSS shall establish a claim against the household equal to the difference between the allotment the household received each month and the allotment the household should have received using the correct allotments and eligibility factors in effect at that time.
- B.) The earned income deduction is not allowed in the claim calculation process for earned income that was unreported or not reported timely regardless of intent.
- C.) When the amount of the claim is established, it will be necessary to determine if there are any benefits due the household which have not been restored in accordance with procedures under "Restoration of Benefits" (Section 7200). If so, any benefits due the household will be subtracted from the amount of the claim. DSS will initiate collection action for the remainder, if any.

NOTE: Retroactive benefits and current benefits can never be reduced to offset a claim.

- D.) The amount of benefits misused because of trafficking is determined by the ORFI. In most cases, ORFI receives a report from the Office of Inspector General (OIG) or FNS and determines the amount trafficked based on the individual's admission, adjudication, or the trafficking document.

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PREPARATION OF REPORT OF CLAIM DETERMINATION

DSS-RE-894, Overpayment Report must be completed for all overissuances, in addition to the automated referral to ORFI, RECO. The following instructions define how to complete the referral process:

- A.) DSS-RE-894, Overpayment Report, Header Section, must be entirely completed.

- * Potential O/P Date is the date the potential overpayment was discovered.
- * Substantiation/TIP Sent is the date the substantiation (verification/documentation) was requested to complete the overpayment. The request for information must be sent within 30 days after the potential overpayment date.
- * Substantiation Received is the date the final substantiation/documentation is received verifying the overpayment has occurred. The DSS-RE-894 and RECO must be completed as soon as possible after this date and within 120 days from this date.

- B.) DSS-RE-894, Overpayment Report, Summary of Circumstances thoroughly explains how the error was caused, how and when it was initially discovered, if the household was contacted and their explanation of the error, and what action has been or will be taken to prevent the occurrence of such errors in the future. The summary also contains the following:

- * Why the error is classified as agency error (AER), inadvertent household error (IHE) or suspected program violation error (SPV).
- * If an agency error (AER), a summary of the action taken to prevent recurrence in the future is required.
- * If the misunderstanding was due to unclear interviewing techniques and/or explanation of the reporting requirements, the overpayment will be classified as an agency error.
- * If IHE, explanation on when the error was corrected and how the household was retrained on the correct reporting responsibilities.
- * The specific information regarding the overpayment - what is was, time frames involved, how it was located, etc.
- * Any other information that is valuable in deciding the final disposition of the claim type.
- * If SPV, the past overpayment history must be detailed.

- * If IHE or SPV, how the household was contacted and their explanation on why the error occurred.
- * Any other information which would be useful in making a decision to substantiate further action such as:
 - a.) Date issuance began and discontinued, pertinent to this action.
 - b.) Nature and value of undisclosed assets, resources, or income or statement of statutory ineligibility.
 - c.) Occasions and manner in which the household concealed, denied, or failed to report facts relative to item b.
 - d.) Dates and contents of signed resource statements as well as oral representations made.
 - e.) Date and source of verification of facts relative to item b. Show name and identity of person if verification was made by personal interview, and state clearly the facts providing the falsity of the representations of the household.
 - f.) Current assets, resources, and income of household.
 - g.) Response of household to the overpayment or ineligibility. Include when discussed with the household (who it was discussed with) and by whom and his/her statement as to why the situation was not known to DSS.
 - h.) Caseworker's recommendations and comments should include a statement of any special or mitigating circumstances or other pertinent information which would be valuable to the supervisor in reviewing the case and in deciding on final disposition.
- C.) After completion of the DSS-RE-894, Overpayment Report, RECO, is updated. The hard copy form and RECO are then sent to the supervisor for approval. [This is done as soon as possible after the substantiation is entirely received and within 120 days of the receipt of the final verifications.]
 - * One copy of the DSS-RE-894 and all substantiation are maintained in the case file and three copies of the DSS-RE-894 are forwarded to the supervisor. *Substantiation only needs to be forwarded to ORFI if requested.
 - * RECO is completed via the SPEC or IEVW/IEVP function on ACCESS.
 - * Within the 120 time frame for referral, the Overpayment Report is reviewed for accuracy by the Supervisor, signed and forwarded to the ORFI Recovery Coordinator, and if requested, to the District Supervisor. RECO is also approved on ACCESS by the Supervisor and upon approval, is automatically forwarded to the ORFI Coordinator.
 - * ORFI reviews the claim and decides action to be taken. ORFI is responsible for claim collection as outlined in Section 7500.

7400 DISQUALIFICATION FOR INTENTIONAL PROGRAM VIOLATION (IPV)

7401 REFERRAL PROCESS/RESPONSIBILITY

An administrative hearing is initiated for any of the reasons noted in Section 7320. All claim determinations based on allegations of intentional program violation must clearly note the nature of the error that would indicate the possibility of intentional program violation, and the date the overpayment was substantiated. Also any documents that would substantiate the allegation of intentional program violation must be kept with the case file. A copy of the Overpayment Report, DSS-RE-894, and the documents substantiating the claim must be filed in the food stamp case record in Section 5. A copy of the substantiation will be sent to the Office of Recoveries & Fraud Investigations (ORFI), if they request one.

The Office of Recoveries & Fraud Investigations (ORFI) reviews all claims filed as Suspected Program Violations (SPV) to determine if the case should be referred for administrative disqualification proceedings or prosecution action. After claims alleging intentional program violations are reviewed by the Office of Recoveries and Fraud Investigations (ORFI), ORFI may do any or all of the following: provide an opportunity for the accused individual to sign a disqualification hearing waiver, forward the case to the Department's administrative hearings section, or investigate further and refer to legal staff for prosecution. If more than one of the actions is taken, the actions will be sequential. Each action will be completed by ORFI or the agency to which ORFI initially referred it before another action cited above is initiated.

If the circumstances identified on the claim documents make the SPV determination questionable, ORFI will contact the supervisor and/or caseworker to discuss the circumstances of the overpayment. If, as a result of the discussion, the final determination is the claim should be changed to an Inadvertent Household Error (IHE), the claim will be revised during the discussion. The final determination will be a consensus between ORFI and Food Stamp Personnel.

The Office of Administrative Hearings (OAH) may conduct administrative disqualification hearings in cases where the facts of the individual case do not warrant civil or criminal prosecution through the courts, in cases previously referred for prosecution but were declined, and in previously referred cases where no action was taken within a reasonable period of time, and the referral was formally withdrawn.

An administrative disqualification hearing cannot be initiated against an accused individual whose case is currently being referred for prosecution if the factual issues of the case arise out of the same or related circumstances.

The Office of Recoveries and Fraud Investigation may initiate administrative disqualification procedures or refer a case for prosecution regardless of the current eligibility of the individual.

7402 PARALLEL TO FAIR HEARING SYSTEM

Intentional Program Violation hearings will be conducted by the same personnel responsible for fair hearings and by the same procedures, and may be appealed to a higher court as is the case with fair hearings. Fair hearings and Intentional Program Violation hearings may be combined, if the factual issues arise out of the same or related circumstances and due notice has been provided to the individual by the administrative hearings office. If the individual had prior IPV disqualifications, a copy of the previous IPV waiver or hearing decision must be an exhibit at the administrative hearing. Procedures and practices for administrative hearings are detailed in the "Manual of Practice and Procedure" distributed by the Office of Administrative Hearings.

7403 INITIATION OF INTENTIONAL PROGRAM VIOLATION HEARING PROCESS

The Office of Administrative Hearings (OAH) provides written notice of the household member(s) suspected of an IPV at least 30 days in advance of the date an IPV hearing has been scheduled.

Within 90 days of the date the household member is notified in writing that a hearing has been scheduled, OAH shall conduct the hearing, arrive at a decision, and initiate administrative action to make the decision effective.

The household member or representative is entitled to a postponement of the scheduled hearing, provided the request for postponement is made at least 10 days in advance of the scheduled hearing. However, the hearing shall not be postponed more than once and not for more than a total of 30 days.

7404 WITHDRAWAL FROM AN IPV HEARING PROCESS

If it is determined that a SPV needs to be withdrawn from the IPV hearing, written notice indicating the reasons for the withdrawal must be submitted to state office ORFI. The notice will be reviewed and if ORFI agrees with the request, they will forward it to OAH and the overpayment will be downgraded from an SPV to an IHE. If there is a question about the withdrawal, ORFI will attempt to resolve the issue with the EA supervisor. If an agreement cannot be reached, a decision will be made in State Office.

7405 SCHEDULING OF HEARING

The time and place of the hearing must be accessible to the household member suspected of intentional program violation. If the household member cannot be located or fails to appear at a hearing without good cause, the hearing shall be conducted without the individual being represented. Even though the household member is not represented, the administrative hearing officer is required to carefully consider the evidence and determine if an intentional program violation was committed. If a decision of intentional program violation is rendered and the officer later determines that the individual had good cause for not appearing, OAH shall conduct a new hearing. The individual has 10 days from the date of the scheduled hearing to present reasons indicating good cause for failure to appear.

7406 WAIVED HEARINGS

Accused individuals shall be allowed to waive their rights to an administrative disqualification hearing as set forth in this section. Individuals accused of their third intentional program violation may not waive their right to an administrative disqualification hearing.

7407 ADVANCE NOTIFICATION

OAH or ORFI provides written notice to a household member suspected of intentional program violation informing them he/she can waive his/her right to an administrative disqualification hearing. A waiver may not be used for the third alleged IPV. In cases involving a third alleged IPV, an administrative disqualification hearing must be held, unless the case is prosecuted.

7408 NOTIFICATION OF HEARING DECISION

The Office of Administrative Hearings will mail a written decision to the household notifying them of their decision.

If the administrative disqualification officer finds that the household member did not commit an Intentional Program Violation, ORFI will change the claim from an SPV to an IHE.

If the administrative disqualification officer finds that the household member committed an intentional program violation, DSS shall mail a written notice (ACCESS NIPV Notice) to the household member prior to disqualification. The notice shall:

- A.) Inform household member of the disqualification time period; and
- B.) Advise remaining household members, if any, of either the amount they will receive during disqualification period or that they must reapply because the certification period has expired; and
- C.) Include the date the disqualification becomes effective.

Procedures for handling the income and resources of the disqualified member are described in Section 5500.

7410 BASIS FOR DISQUALIFICATION

Administrative disqualifications for intentional program violation are based on the following:

- A.) Determinations of hearing officials arrived at through administrative disqualification hearings;
- B.) Determinations reached by courts of appropriate jurisdiction;
- C.) Determination that an accused individual has waived his/her rights to an administrative disqualification hearing as per Section 7420.
- D.) Determination that an accused individual has signed a disqualification consent agreement for a case of deferred adjudication as set forth in Section 7441.

7411 DISQUALIFICATION PENALTIES

IPV disqualification time frames are determined based on when the IPV infraction occurred. The date an IPV infraction occurs is defined as the first month the incorrectly or unreported information would have affected the household's eligibility or allotment amount [first overpayment month].

EXAMPLE: John didn't report Jane was employed during the September 15 application interview, and he was certified for benefits 09-96 through 08-97. On December 5, an IEVS hit alerted the worker about Jane's employment and verification of her income made the household ineligible back to 09-96 application month. FS infraction date, 09-01-96, is the date entered on MEMS.

EXAMPLE: John and Jane had an on-going monthly reporting food stamp case with their most recent certification period being 01-97 through 12-97. John starting receiving VA benefits June 15, 1997 but did not report the information until their recertification interview in December 1997. The VA income did not cause prospective ineligibility for July 1997 benefits therefore John and Jane did not have an overpayment until benefit month August 1997. The month entered for the FS infraction date on the MEMS panel should be 08-01-97.

Individuals who intentionally caused one or more infractions after September 22, 1996, and were found to have committed an intentional program violation through any of the ways set forth in Section 7410, shall be ineligible to participate for 12 months if this is their first violation, 24 months for the second violation, and permanently for the third violation. If the infraction occurred prior to September 23, 1996, the individual is ineligible to participate for 6 months for the first violation, 12 months for the second violation, and permanently for the third violation.

EXAMPLE: John was found guilty of an IPV for overissued benefits for 01/96 - 03/96. The disqualification period is 6 months. He was subsequently found guilty of IPV for overissued benefits 10/97 - 12/97. The disqualification is 24 months for this violation.

Once an individual has signed a waiver/consent agreement or been found guilty of an intentional program violation, the violation counts unless it occurred prior to July 1983. If an individual had one or more violations prior to July 1983, the violation(s) only counts as one.

EXAMPLE: Jane was found guilty of IPVs 06-82, 06-83, 06-95, and 06-97. The IPVS in 1982 and 1983 count as one violation, the 1995 IPV counts as the second violation, and the June 1997 counts as the third.

The individual cannot be accused of a second or third IPV for any event that occurred prior to the time frames of the first IPV or during the time the first IPV is pending or awaiting a final hearing decision on the hearing or acknowledging the receipt of the hearing waiver. The following examples clarify those times when a second or third IPV cannot be alleged:

1. The first IPV occurs on January 5, 1994. The household receives the notice of hearing for the 1st IPV on March 1. The hearing is scheduled for May 15. On March 10, 1994 a 2nd IPV occurs and is discovered. If the State notifies the household before April 15 of its intent to pursue a hearing for the 2nd IPV, that IPV may be included in the May 15 hearing. A subsequent claim against the household could be initiated or increased, but no more than a 6-month disqualification could be imposed for both IPVs.
2. Using the same time frames as above, suppose the individual received the final hearing notice May 25 and was disqualified from June through November. During the 6 month disqualification period the state discovers a 3rd IPV occurred in April 1994. There may not be another disqualification period imposed for this IPV since it occurred prior to the hearing determination of May 25. However, a claim could be established. This claim would be established as an inadvertent household error claim because a hearing may not be held in order to determine an intentional violation since the violation occurred prior to the household's receipt of the final hearing decision.
3. The first IPV occurs on June 10. The household receives the notice of hearing on August 1 and the hearing is held on September 5. The hearing decision is sent on September 29 and the individual is disqualified from October through March. In May the worker discovers that a 2nd IPV occurred in August. In this case, the claim must be considered an IHE because it occurred prior to the hearing determination for the 1st IPV.

4. Three serious and different IPV's occur in January and February and are discovered by DSS in March. The household is notified at three different times prior to May 15 that a hearing will be held. The IPV's are serious, with large fiscal claims and the household pleads guilty. Only one disqualification penalty can be imposed because all three violations occurred prior to the hearing determination and the household has had no previous disqualifications.

Only the individual found to have committed the intentional program violation, and not the entire household, shall be disqualified. Remaining household members must agree to make restitution within 30 days of the date the demand letter is sent or the household's monthly allotment shall be reduced. The Office of Recoveries and Fraud Investigation (ORFI) will send out the demand letter, and ACCESS will automatically enter a recoupment if the household does not respond to the demand letter. Restitution begins during the period of disqualification. See Sections 7411 and 7510 for details.

If a court fails to impose a disqualification period, DSS shall impose a disqualification period. DSS shall impose penalties following instructions in this section unless it is contrary to the court order.

7412 NOTIFICATION OF DISQUALIFICATION

DSS shall provide written notice to the household member prior to implementing the disqualification penalty using the automated NIPV Notice. Remaining household members must also be notified of the amount they will receive during the disqualification period or that they must reapply because their certification period has expired. A demand letter for restitution will also be sent to the household by the Office of Recoveries and Fraud Investigations.

7413 IMPOSITION OF DISQUALIFICATION PENALTIES

After a household member has been found to have committed an intentional program violation, the household member is disqualified beginning with the first month which follows the date the household member receives written notification of the hearing decision, regardless of whether or not the individual is receiving benefits. If the case is active, the caseworker enters the IPV information on the MEMS panel. If the case is inactive, ORFI enters the IPV information on the MEMS panel.

No further administrative appeal procedure exists after an adverse State level hearing. The determination of intentional program violation made by a hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

Once a disqualification penalty has been imposed against a household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household. However, the disqualified member shall continue to be responsible for repayment of the overpayment which resulted from the disqualified member's intentional program violation regardless of his/her eligibility for Program benefits.

7420 WAIVED DIQUALIFICATION HEARINGS

If the accused individual signs the waiver and it is timely received, the household member is disqualified for time period identified in Section 7411. The disqualification period begins with the first month which follows the date the household member receives written notice of the disqualification.

Once the penalty has been imposed, disqualification continues uninterrupted regardless of the eligibility of the disqualified member's household.

No further administrative appeal procedures exist after an individual waives his/her right to an administrative disqualification hearing and a disqualification penalty has been imposed. The disqualification penalty cannot be changed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

7421 NOTIFICATION OF DISQUALIFICATION

Once a waiver is signed, DSS shall provide an automated NIPV notice to the household member, prior to disqualification if possible. The notice shall inform the household member of the disqualification and the date the disqualification will take effect. DSS shall also provide written notice to the remaining household members, if any, of the amount they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in Section 5500. ORFI is responsible for sending the written demand letter for restitution.

7430 COURT IMPOSED DISQUALIFICATIONS

The Office of Recoveries and Fraud Investigation will determine if a referral for prosecution under State or local statutes is warranted for individuals suspected of committing intentional program violation, particularly if large amounts of food stamp benefits are suspected of having been obtained by an Intentional Program Violation or the individual has a history of prior IPV's. ORFI shall confer with its legal representative to determine the types of cases which will be accepted for possible prosecution. If a court fails to include a disqualification in its criminal conviction order, ORFI will determine the appropriate disqualification.

A court of appropriate jurisdiction, with either the State, a political subdivision of the State, or the United States as prosecutor or plaintiff, may order an individual disqualified from participation in the program for the time period identified in Section 7411 if the court finds that individual guilty of civil or criminal violation.

If disqualification is ordered, but a date initiating the disqualification period is not specified, DSS shall initiate the disqualification period for individuals within 45 days of the date the disqualification was ordered.

Once the penalty has been imposed, it shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household.

If the court fails to specify or address a disqualification period, DSS shall impose the appropriate disqualification period as discussed in Section 7310 unless it is contrary to the court order. Only the individual convicted of intentional program violation and not the entire household can be disqualified.

7431 NOTIFICATION OF DISQUALIFICATION

If the court finds that the household member committed an intentional program violation, DSS shall provide written notice to the household member via the automated NIPV function on ACCESS. The notice shall be provided prior to disqualification, whenever possible. The notice shall inform the household member of the disqualification and the date disqualification will take effect. DSS shall also provide written notice to the remaining household members, if any, of the amount they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in section 5500. ORFI is responsible for sending the written demand letter for restitution.

7440 DEFERRED ADJUDICATION

DSS shall allow accused individuals to sign disqualification consent agreements for cases of deferred adjudication. Cases of deferred adjudication are those in which a determination of guilt is not obtained from a court due to the accused individual having met the terms of a court order or which are not prosecuted due to the accused individual having met the terms of an agreement with the prosecutor. The following procedures are applicable.

7441 IMPOSITION OF DISQUALIFICATION PENALTIES

If the accused household member signs the disqualification consent agreement, the member is disqualified for the time period identified in Section 7411. Disqualification begins within 45 days after the disqualification consent agreement is signed, unless the court specifies differently.

Once the penalty has been imposed, it continues uninterrupted regardless of the eligibility of the disqualified member's household.

7442 NOTIFICATION OF DISQUALIFICATION

Once a disqualified consent agreement is signed, DSS shall provide an automated NIPV notice to the household member, prior to disqualification if possible. The notice shall inform the household member of the disqualification and the date the disqualification will take effect. DSS shall also provide written notice to the remaining household members, if any, of the amount they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in Section 5500. ORFI is responsible for sending the written demand letter for restitution.

7450 REPAYMENT OF INTENTIONAL PROGRAM VIOLATION

Regardless of the current eligibility of a disqualified member's household, the household continues to be responsible for repayment of the overpayment resulting from the member's intentional program violation.

7460 REVERSED DISQUALIFICATIONS

In cases where the determination of intentional program violation is reversed by a court of appropriate jurisdiction, DSS shall reinstate the individual in the program if the household is eligible. DSS shall restore benefits that were lost as a result of the disqualification.

7500 COLLECTING CLAIMS

The Office of Recoveries and Fraud Investigations (ORFI) shall initiate collection action on all unpaid balances after approval of the accuracy and validity of the agency or inadvertent household overpayment claim by supervisory staff. Upon receipt of the IPV determination (waiver, administrative hearing, court findings, or signed consent agreement), ORFI shall also initiate collection proceedings to recover the unpaid balance.

7510 INITIATING COLLECTION ON CLAIMS

The Office of Recoveries and Fraud Investigations (ORFI) shall initiate collection action by providing the household a written demand letter which informs the household of the following:

- A.) Amount owed.
- B.) Intent to collect from all adults in the household when the overpayment occurred
- C.) Classification of overpayment
- D.) Cause of overpayment
- E.) Period of time over which the overpayment occurred
- F.) A copy of the claim calculation (the reverse side of the DSS-RE-894, Overpayment Report)
- G.) Name and phone number of the ORFI recovery coordinator assigned to the individual's debts
- H.) The following statements:
 - * The overpayment is equal to the difference between the allotment the household received and the allotment the household should have received.
 - * If the overpayment is not paid, it will be sent to other collection agencies, who will use various collection methods to collect.
 - * Records related to the overpayment may be inspected and copied at the local DSS office.
 - * Unless the amount of the overpayment was established at a hearing, a fair hearing can be requested within 90 days of the date of the demand letter.
 - * If not paid, the overpayment will be referred to the Federal government for federal collection action.

- * A written agreement to repay the amount may be made to ORFI prior to referral for federal collection action. ORFI has the authority to accept or decline the agreement.
- * ORFI may reduce any part of the overpayment if the ORFI determines the household is not able to repay.
- * If the household does not respond to the demand letter or make full repayment within 30 days, and the household is active the households allotment will be reduced by:
 - ☆ The greater of 10% or \$10 if the claim is classified as an agency error or inadvertent household error. I
 - ☆ The greater of 20% of the household's entitlement or \$20 if the claim is classified as an IPV.
- * If not an active food stamp participant, the household has 30 days from the date of the letter to pay the claim in full or to arrange an acceptable repayment agreement with ORFI.
- * That free legal representation is available, if any exists in the area.

7520

ACTION AGAINST HOUSEHOLDS WHICH FAIL TO RESPOND

When collection action has been initiated and the household fails to respond, to the written demand letter within 30 days from the date the letter is mailed, the household's allotment will be reduced, if the household is participating. If the household is not participating, ORFI will pursue other collection actions, as appropriate.

7521

CHANGE IN HOUSEHOLD COMPOSITION

ORFI shall initiate collection action against any or all of the adult members of a household at the time an overpayment occurred. Therefore, if a change in household composition occurs, ORFI may pursue collection action against any household which has a member who was an adult member of the household that received the overpayment.

DSS may offset overpayments against restored benefits owed to any household which contains a member who was an adult member of the original household at the time the overpayment occurred. (This applies only to overpayments which occurred after June 20, 1986.)

7530 METHODS OF COLLECTING PAYMENTS

7531 ALLOTMENT REDUCTIONS

Unless a repayment agreement has been negotiated, DSS shall collect payments for all overpayments from households currently participating in the program by reducing the household's food stamp allotments, except SPV claims. When the SPV classification is changed to an IPV (signed waiver, administrative hearing, court findings, or signed consent agreement), ORFI will use allotment reductions for payments from currently participating households.

Prior to reduction, ORFI will send a demand letter and allow the household 30 days to pay off the overpayment in full or negotiate an acceptable repayment agreement. If no repayment agreement is accepted, ORFI will enter the appropriate information on ACCESS to start the allotment reduction process.

The provision for a \$10 minimum benefit level for households with one and two members only, shall apply to the allotment prior to reduction.

The amount of benefits to be recovered each month through allotment reduction is determined as follows:

- A.) Inadvertent household and Agency error claims - The amount of benefits to be recovered each month shall be the greater of 10% of the household's monthly allotment or \$10 per month.
- B.) Intentional program violation claims - The amount of benefits to be recovered each month shall be the greater of 20% of the household's monthly entitlement or \$10 per month.

Rounding - If the allotment times 10% or 20% ends in 1 to 49 - round down, if it ends in 50 to 99 - round up to the next highest dollar.

Example: Allotment \$132 x 10% = 13.20 -- Recoup \$13
Allotment \$149 x 10% = 14.90 -- Recoup \$15

7532 OFFSET OF RESTORED BENEFITS

If an underissuance of benefits has occurred (Section 7200), and the household has an unpaid balance, the amount of the unpaid balance will be deducted before any restored benefits are paid.

7533 LUMP SUM PAYMENTS

If the household is financially able to pay the claim at one time, the lump sum cash payment shall be collected. However, the household shall not be required to liquidate all of its resources to make this one lump sum payment.

If the household is financially unable to pay the entire amount of the claim at one time and prefers to make a lump sum payment as partial payment of the claim, ORFI shall accept this method of payment.

Either cash or food stamp benefits may be received for lump sum payments.

7534 INSTALLMENT PAYMENTS

If the household has insufficient liquid resources or is otherwise financially unable to pay the claim in one lump sum, payments shall be accepted by ORFI in regular installments. Payments may be made with food stamp benefits or cash.

If the household member fails to make a repayment in accordance with the established repayment schedule, (either a lesser amount or no payment), the claim becomes delinquent and the household will be subject to additional collection actions.

7535 CLIENT AUTHORIZED EBT DEBITS

Households may pay overpayments with their food stamp benefits by requesting it. The Food Stamp Program Client Authorized Debit for Repayment of Overissuance Form (DSS-EA-354 or DSS-ES-354E) is the household's written authorization.

If a household makes the request verbally, the DSS or ORFI staff will complete the form. Staff must indicate they received verbal authorization from the household and the specific amount the household authorized. For all verbal authorizations, ORFI will send a letter to the client within 10 days of the transaction verifying the debit.

The DSS-EA 354 or 354E must be forwarded to the Office of Recoveries and Investigations for verification of the payment amount. ORFI verifies the amount of the active claim balance and repayment amount and then completes and signs their section of the form. ORFI then forwards the form to the Dakota EBT office who completes the requested debit of funds from the household's active EBT account.

7536 STALE EBT ACCOUNT DEBITS

Every other week, ORFI will review EBT stale account (no activity in 90 days) funds in excess of \$25 to determine if a household has an overpayment. If they discover a household with an overpayment, and the household's stale EBT account balance is at least \$25, ORFI will send the household a letter. The letter will notify the household that the amount in the stale account, up to the overpayment total, will be taken as payment on their debt. The household will be offered a time frame of 12 days to contact ORFI to stop the debt repayment.

7537 EXPUNGED EBT ACCOUNT DEBITS

Every other week, ORFI will review EBT expunged account (no activity in 365 days) funds in excess of \$25 to determine if a household has an overpayment. If they discover a household with an overpayment, and the household's expunged EBT account balance is at least \$25, ORFI will use the amount in the expunged account up to the overpayment total as payment on their debt.

7538 TREASUREY OFFSET PAYMENTS (TOP)

All overpayments that are legally enforceable and are delinquent for at least one hundred and eighty days or more are submitted to TOP. Once referred, the Department of Treasury will reimburse all or part of the individual's income tax refund to ORFI up to the amount of the overpayment.

7539 OTHER COLLECTION ACTIONS

ORFI may employ any other collection actions to collect overpayments. These include but are not limited to referrals to state tax refunds, wage garnishments, lottery offsets, property liens, and small claims court.

7540 UNSPECIFIED JOINT COLLECTIONS

When an unspecified payment is received for a TANF and Food Stamp overpayment, ORFI may prorate the amount collected between the two programs. If the payment specifies which program it is intended, no proration will occur.

7550 SUBMISSION OF PAYMENTS

All cash collections shall be promptly transmitted to the assigned Recovery Coordinator and each payment shall be accompanied by a cash transmittal and the original of the Department's serially numbered receipt form.

All collections shall be accepted in the form of money orders, certified bank draft, cashier's check or other form of guaranteed payment. Payments for claims determined to have occurred due to suspected intentional program violation may be accepted by DSS, but are subject to the Office of Recovery and Investigation's approval. If disapproved, the payment instrument will be returned to the household.

7560

METHOD OF COLLECTION:

TYPE OF CLAIM	CALCULATING THE AMOUNT	ORFI SENDS DEMAND LETTER	LUMP SUM	REPAYMENT AGREEMENT	ALLOTMENT REDUCTION
Agency Error (caused by DSS error)	Go back 12 months plus discovery month	YES	YES	YES	Automatic if no response to demand letter (\$10 or 10% of the allotment)
Inadvertent Household Error (not deliberately caused by household)	Same as agency error	YES	YES	YES	Same as agency error
Intentional Program Violation (determined by court or administrative hearing or signed waiver/ consent form.	Go back 6 years plus discovery month	YES	YES	YES	Automatic if no response to demand letter (\$20 or 20% of the <u>entitlement</u>)

NOTE: ENTITLEMENT AMOUNT: The amount the household would have received if the IPV disqualified member was included with the household. Example: \$491 allotment based on 4 people but if 5 people had been included, the household would receive \$497. \$497 times 20% = \$99, the amount of allotment reduction.

The Office of Recoveries and Fraud Investigations (ORFI) will handle collection requirements for the areas of demand letters, negotiating payment agreements, etc. ORFI will notify ACCESS to have the allotment reduction (recoupment) automatically programmed to be deducted from benefit amount when allotment reduction procedures are required. ORFI may also use other methods of collections - civil suit, IRS tax intercept, referral to a private collection agency, small claims court, etc. - for all types of claims.

7600 REPLACEMENT OF FOOD STAMP BENEFITS OR FOOD PURCHASED WITH FOOD
STAMP BENEFITS

7610 HOUSEHOLD MISFORTUNE

Lost, stolen, damaged, or compromised EBT cards will be replaced following procedures identified in the "EBT Procedures Manual". Food stamp benefits will only be replaced if the benefits are drawn after the household reports lost, stolen, misplaced, or compromised EBT cards.

Food purchased with food stamp benefits may be replaced if the food has been destroyed in a fire, flood, tornado, power loss, or other misfortune beyond the household's control. The following procedures are used for individual household misfortunes:

1. The loss was reported within 10 days of the misfortune;
2. The household is currently participating in the program;
3. The household completed DSS-EA-344, Affidavit for Replacement of Food Lost in a Disaster; and
4. The replacement value is limited to the amount of food lost up to the amount of benefits received in the month of the misfortune.

7620 NATURAL DISASTER

Individuals who resided in a disaster area and suffered damage may be eligible for emergency disaster food stamp assistance. Damages may include the loss of wages because of the inability to get to work, or the business closed temporarily or permanently because of the disaster.

State Office personnel will request approval from FNS to operate an emergency disaster food stamp assistance program following procedures identified in the South Dakota Food Stamp Disaster Plan. When FNS authorization is received, State Office program and EBT staff will immediately travel to the disaster location and set up the emergency program, including training, application processing, benefit issuance, etc. Local staff will be recruited and trained as the need arises.

7630 EBT REPLACEMENT CARD PROCEDURES

The sale/purchase of SNAP benefits or food purchased with SNAP for cash is called trafficking, an illegal activity punishable by disqualification and/or criminal prosecution. Additionally the customer is required to repay the misused benefits. It is very difficult to prove trafficking, however when it is suspected, we must investigate to determine if there is enough information to pursue a suspected intentional program violation (SPV).

The following procedures must be followed when replacement EBT cards are requested:

1. Customers requesting a replacement EBT card must complete a "Request for Replacement EBT card" form, DSS-EA-302. The form is located at P:\Division of Economic Assistance\1) Supplemental Nutrition Assistance Program (SNAP)\SNAP Forms\302 Request for Replacement EBT Card.doc. The form must be scanned into section 5 of the case record.

7630

EBT card replacement procedures continued:

Staff shall look back 12 months from the date of the replacement request to determine the number of replacement cards that have been issued.

The EBT Edge system shall be reviewed by the EBT issuance staff to determine whether or not an interview is required before a replacement card can be issued.

- If this is the first replacement card requested in the past 12 months, the EBT card will be issued. The customer must be advised of the importance of keeping the EBT card secure.
- If the customer has had at least one replacement card in the last 12 months, continue with steps 2-5 outlined below.

Itinerant Office Exception: If a Benefits Specialist or other staff member issues a replacement card in an itinerant office where they do not have access to the EBT system, interviews must be completed prior to issuing the replacement card as the number of replacements will be unknown at the itinerant location.

Please note:

- Cards issued at application, reapplication or card corrections should not be included in the count of replacement cards.
2. Upon the request for a 2nd replacement EBT card within a 12 month period, the customer must be interviewed by a Benefits Specialist, Supervisor, Lead Worker, or Regional Manager before the replacement card may be issued.
 - Talking points shall be used to assist in this interview process. The talking points are located on the P drive: Division of Economic Assistance\ (1) Supplemental Nutrition Assistance Program (SNAP) \SNAP Desk Guides\EBT Card Interview Talking Points.doc
 3. For all subsequent replacement card requests and until the household has not requested a replacement card for at least a 12 month period, the customer must be interviewed by a Benefits Specialist, Supervisor, Lead Worker, or Regional Manager before the replacement card may be issued.
 4. A notice must be sent to households who have requested a 3rd EBT card in the past 12 months notifying them of the trafficking penalties. Even though the notice has ORFI letterhead, the notice is mailed from the local office after the interview is completed. The notice must be mailed out no later than 2-3 working days after the interview was completed. A copy of the notice should be scanned into Section 5 of the case record.
 - A copy of the notice is attached and also is located on the P drive: Division of Economic Assistance\ (1) Supplemental Nutrition Assistance Program (SNAP) \SNAP forms\EBT Replacement Card Notice.doc.

7630

EBT card replacement procedures continued:

5. When a household requests 4 or more replacement EBT cards in the last 12 months, the household must be referred to the Office of Recoveries and Fraud Investigations (ORFI). The ORFI referral must be completed within 3 working days after the interview is completed. A referral form has been developed and is located on the P drive: Division of Economic Assistance\ (1) Supplemental Nutrition Assistance Program (SNAP)\SNAP forms\889 Investigation EBT Replacement Card Request Form.doc.
6. Every entry in the EBT card issuance log must be updated to indicate if the card was issued due to a new application, re-application, replacement, or agency error (card correction).
7. A database shall be used to track all replacement card issuances. The database will allow staff to track the number of replacement cards issued, the reason for replacement, and provide a quick check to see if the above steps have been taken with a customer. The database will also be used to monitor and report outcomes on a local and state level. Due to the high demand for replacement cards at various times during the month, the database does not have to be updated prior to a card being issued. The Request for Replacement EBT Card forms can be used to update the database at a later date but no later than 3 working days after the card was replaced. The data base will be reviewed as part of the office review during Management Evaluation (M.E.) reviews.

The South Dakota EBT Client Handbook, SNAP brochure, and the DSS-EA-301, Statement of Need, emphasize the importance of using SNAP benefits correctly.

All staff must emphasize the importance of keeping the EBT card in a safe and secure location when discussing EBT usage with the customer and/or issuing the initial or first replacement card.